

AT ROANOKE, VA

FILED

1/7/2019

JULIA C. DUDLEY, CLERK

BY: s/ KELLY BROWN

DEPUTY CLERK

UNITED STATES DISTRICT COURT

for the

Western District of Virginia



United States of America

v.

Badawi Jaber

Case No. 7:19-MJ-00003

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 6, 2018 in the county of Roanoke in the
Western District of Virginia, the defendant(s) violated:

Code Section
 18 USC 922(g)(5)

Offense Description
 Prohibited Acts - Unlawful Possession of a Firearm

This criminal complaint is based on these facts:

See Attached Affidavit

☒ Continued on the attached sheet.*Hunter Durham**Complainant's signature*

Hunter Durham / Special Agent (DHS-HSI)

Printed name and title

Received by reliable electronic
 means and attested to
 telephonically

Sworn to before me and signed in my presence.

1/7/2019

Date: 01/04/2019*Robert S. Ballou**Judge's signature*City and state: Roanoke, Virginia

Hunter Durham / Special Agent (DHS/HSI)

Printed name and title

THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA

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| IN THE MATTER OF A CRIMINAL COMPLAINT AND ARREST WARRANT FOR: Badawi Jaber | CASE NO. <u>7:19-MJ-00003</u> |
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AFFIDAVIT IN SUPPORT OF AN APPLICATION
FOR A CRIMINAL COMPLAINT AND ARREST WARRANT

I, Hunter Durham, being first duly sworn, depose and state the following:

INTRODUCTION

1. I make this affidavit in support of an application for a criminal complaint and arrest warrant for Badawi Jaber, who is a citizen of the Kingdom of Jordan.

2. I am a Special Agent with the U.S. Department of Homeland Security (DHS), Office of Homeland Security Investigations (HSI), currently assigned to the Washington D.C. Field Office. Prior to my career in federal law enforcement, I served as a member of the United States Military for 10 years. I have been awarded academic degrees of Bachelor of Arts and Master of Arts focusing in the field of Political Science. I have been employed as a Special Agent in federal law enforcement since 2006. I have experience as the managing case agent for numerous and diverse criminal investigative program areas including but not limited to conspiracies related to drug smuggling and trafficking; federal firearms violations; national security violations; document and identity fraud schemes; financial and money laundering operations; child exploitation and cyber-crime; intellectual property rights crimes; document and identity fraud; fugitive investigations; and criminal alien violations.

3. As part of my duties, I have conducted firearms related investigations as the managing case agent, which include the drafting and execution of arrest warrants related to gun offenses.

4. The statements in this affidavit are based on my experience, training, professional research, consultation with other law enforcement and background as a federal agent. I reviewed information related to this investigation and have set forth only the facts I believe are necessary to establish probable cause to believe that Badawi Jaber has committed violations of Title 18, United States Code, Sections 922(g)(5), Prohibited Persons.

CASE INITIATION

5. During October 2018, the HSI Resident Agency in Roanoke received “lead” information from the Roanoke City Police Department (RPD) and Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) Officers in Roanoke, Virginia, who were involved in the investigation of a firearms related incident. Your affiant was assigned to coordinate investigative efforts related to the case.

6. On or about October 6, 2018, Roanoke City Police Officers responded to an incident near Melrose Avenue in Roanoke, Virginia. The RPD officers arrived on scene to discover that at least two persons were engaged in a physical altercation. One of them possessed, brandished and discharged a firearm. Badawi Jaber was taken into police custody during the RPD response and immediate investigation.

7. Following his arrest, Jaber was identified and interviewed by ICE ERO Officers at the Roanoke City Jail because of his foreign citizenship and visitor’s status in the United States.

JABER’S IMMIGRATION STATUS

8. Badawi Jaber is a Jordanian citizen who is unlawfully present in the United States. Your affiant received summary information from the ICE ERO office in Salem, Virginia and reviewed Jaber’s official alien registration file, which reveal the following:

- A. On October 26, 2015, JABER entered the United States and was admitted as a B-2, Non-immigrant visitor for pleasure with authorization to remain in the U.S. until April 25, 2016. JABER remained in the U.S. beyond April 25, 2016, without authorization from the Department of Homeland Security. None of the provisions of Jaber's original visitor's VISA authorized him to possess a firearm while he was lawfully present in the United States.
- B. On May 23, 2016, ICE ERO encountered JABER in Roanoke, VA, and lodged an I-247A, Immigration Detainer-Notice of Action against him. ICE ERO Washington issued JABER, I-862, Notice to Appear in US Immigration Court pursuant to section 237(a)(1)(B) of the INA, as a visa overstay. On June 20, 2016, Jaber posted an immigration bond and was released from custody of ICE ERO Washington DC and ordered to report before the US Immigration Court on June 18, 2019.
- C. Following the October 6, 2018 incident ICE ERO Roanoke once again encountered JABER in Roanoke, VA, and served him an I-200, Warrant for Arrest of Alien, and an I-286, Notice of Custody Determination.

OCTOBER 6, 2018 RPD ON-SCENE INVESTIGATION

9. Your affiant reviewed RPD reports and spoke with officers summarizing their 911 emergency response to the October 6, 2018 incident. The following are summary facts from the reporting:

- A. During daylight hours on the evening of October 6, 2018, Badawi Jaber and another man (Victim1) were encountered by RPD at a business on Melrose Avenue in Roanoke City. They both acknowledged having been engaged in an argument and physical altercation.
- B. Both parties stated that the incident was related to an ongoing argument relating to Victim1's romantic inquiries about Jaber's current girlfriend (Female1).
- C. Victim1 acknowledged the fight between the two and stated that Jaber possessed and pointed a firearm at him during the altercation, fired the gun at him and then dropped the gun when Jaber left the immediate area.

- D. Witness1 was a bystander and related information to RPD. Witness1 stated that Jaber and Victim1 engaged in a physical altercation and stated that Jaber possessed, pointed and discharged a firearm in Victim1's direction.
- E. After Jaber fled the area, Witness1 secured the firearm and placed it aside for safety. He also identified the firearm for RPD officers when they arrived, which was placed into evidence.
- F. Several items were seized as evidence by RPD related to this event including but not limited to:
 - a. A Ruger .380 LCP handgun (serial number: 377-91741) with an empty cartridge located in the chamber.
 - b. A six-round capacity Ruger .380 magazine containing three (3) Federal cartridges.
- G. RPD Officers transported Jaber to Roanoke Memorial Hospital for treatment of injuries suffered during the altercation. Jaber was treated and then charged with violations of the Criminal Code of the Commonwealth of Virginia relating to malicious wounding and discharge of a firearm in a public place.

FURTHER INVESTIGATION RELATING TO OCTOBER 6, 2018

10. Your affiant has reviewed several 911 telephone calls from October 6, 2018, including those placed by Victim1 in relation to the October 6, 2018 incident. The callers request law enforcement assistance due to a fight or physical altercation at the location Jaber and Victim1 were discovered by RPD Officers. Several of the callers stated they saw men fighting or heard a "gun shot," which caused them to phone the RPD.

11. In November 2018, your affiant conducted a follow-up interview of Victim1, who summarized the events leading up to and including October 6, 2018. Victim1 attempted to contact Female1 in September of 2018 via Facebook Messenger. Victim1 was unaware that Female1 was Jaber's girlfriend. A disagreement began between Jaber and Victim1 and continued over several weeks. On October 6, 2018 at approximately 6:00 pm, the two men encountered each other by

chance on Melrose Avenue and a verbal and physical altercation ensued. Jaber possessed, brandished and discharged a firearm during the fight but dropped it as he fled the scene. Victim1 phoned Roanoke City 911 emergency services at the earliest opportunity for assistance.

12. Your affiant viewed a video recording, which showed portions of the event. The video generally corroborates Victim1's and Witness1's account about how the altercation began.

- A. Victim1 approaches Jaber's passenger door and speaks to him. Jaber gets out of his vehicle passenger side door and aggressively approaches Victim1.
- B. During the initial event, Jaber is seen to have a black object in his right hand consistent with the size and shape of the firearm identified in this case.
- C. The two men have a conversation where Jaber waives his right hand back and forth. Jaber then hits and grabs Victim1 with his left hand. During the initial contact, Jaber holds his right hand back and away from Victim1.
- D. After several moments, the men are intermittently visible for the remainder of the video section during the event.

13. Your affiant has reviewed numerous hours of jail calls placed by Jaber to Female1 and others during October and November 2018. The jail calls are placed between Jaber, associates and family members. Call conversations frequently include statements which reference the October 6, 2018 incident, evidence, defendant strategies and outcomes.

RUGER .380 FIREARM INFORMATION

14. In December 2018, your affiant requested and received a firearms nexus report from ATF Special Agent Keith Teehan (nexus expert). Agent Teehan reported on Ruger Firearm model, LCP .380 caliber pistol bearing serial number 377-91741 (Ruger 1741) and determined Ruger 1741 is a firearm as defined in Title 18, United States Code, Section 921(a)(3) which was not manufactured in the Commonwealth of Virginia.

15. Based on the aforementioned factual information and summary below, your affiant respectfully submits that there is probable cause to believe Badawi Jaber has violated Title 18 of the United States Code, Section 922(g)(5).

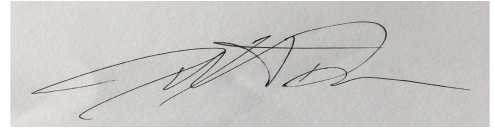
16. The U.S. District Court for the Western District of Virginia is the court of competent jurisdiction authorized to examine this application, which applies to activities within the Western District of Virginia.

Received by reliable electronic
means and attested to
telephonically

7th

Subscribed and sworn to before me on the 4th day of January, 2019

Respectfully submitted,



Hunter R. Durham

Special Agent

Homeland Security Investigations

Roanoke, Virginia

Robert S. Ballou

HONORABLE ROBERT S. BALLOU

UNITED STATES MAGISTRATE JUDGE